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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF FRESNO

THE PEOPLE OF THE STATE OF CALIFORNIA,)	CASE NO.
)	
Plaintiff,)	
)	
v.)	COMPLAINT FOR
)	INJUNCTION, CIVIL
)	PENALTIES AND OTHER
)	EQUITABLE RELIEF
CALIBER BODYWORKS, INC., a California)	
Corporation, doing business as CALIBER)	
COLLISION CENTERS; D.R. LONG, LTD, doing)	
business as CALIBER COLLISION CENTERS;)	
CHAPPARONE AUTO BODY OF MIRAMAR,)	
INC.; SAN MARCOS AUTO BODY, INC.; F & R)	
VENTURES, INC.; RICHARD J. KELLEJIAN,)	
INC.; CORWIN INDUSTRIES CORPORATION;)	
MATTHEW OHRNSTEIN, an individual; BILL)	
LAWRENCE, an individual; DAVID C. RIGGAN,)	
an individual; DEBRA L. MORRIS, an individual;)	
TOM COLEMAN, an individual; AND DOES 1)	
THROUGH 20, INCLUSIVE,)	
)	
Defendants.)	
)	
)	

1 Plaintiff, the People of the State of California (“Plaintiff” or the “People”), by and
2 through Bill Lockyer, Attorney General of the State of California, alleges on information and
3 belief:

4 **DEFENDANTS**

5 1. Defendant Caliber Bodyworks, Inc., doing business as Caliber Collision Centers
6 (“Caliber”), is a California corporation with its principal place of business at 17771 Cowan
7 Avenue, Suite 100, Irvine, California 92614. Caliber is registered with the Bureau of
8 Automotive Repair to do business at various locations. As such, Caliber Bodyworks, Inc.
9 advertises to, and repairs cars for, California consumers.

10 2. Defendant D.R. Long, LTD. (“Long”), doing business as Caliber Collision
11 Centers, has its principal place of business at 17771 Cowan Avenue, Suite 100, Irvine, California
12 93614. Long is registered by the Bureau of Automotive Repair to do business at various
13 locations and is a wholly owned subsidiary of Caliber. As such, Long advertises to, and repairs
14 cars for, California consumers.

15 3. Defendant Chapparone Auto Body of Miramar, Inc. (“Chapparone”), is a
16 California Corporation with its principal place of business at 17771 Cowan Avenue, Suite 100,
17 Irvine, California 93614. Chapparone is registered with the Bureau of Automotive Repair and is
18 a wholly owned subsidiary of Caliber. Chapparone advertises to, and repairs cars for, California
19 consumers.

20 4. Defendant San Marcos Auto Body, Inc. (“San Marcos”), is a California
21 Corporation, with its principal place of business at 17771 Cowan Avenue, Suite 100, Irvine,
22 California 93614. San Marcos is registered with the Bureau of Automotive Repair and are a
23 wholly owned subsidiary of Caliber. San Marcos advertises to, and repairs cars for, consumers
24 in California.

25 5. F & R Ventures, Inc. (“F & R”), has its principal place of business at 17771
26 Cowan Avenue, Suite 100, Irvine, California 93614. F & R is registered to do business with the
27 Bureau of Automotive Repair at various locations and is a wholly owned subsidiary of Caliber.
28 As such, F & R advertises to, and repairs cars for, California consumers.

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2 6. Defendant Richard J. Kellejian, Inc. (“Kellejian”) has its principal place of
3 business at 17771 Cowan Avenue, Suite 100, Irvine, California 93614. Kellejian is registered to
4 do business with the Bureau of Automotive Repair at various locations and is a wholly owned
5 subsidiary of Caliber. As such, Kellejian advertises to, and repairs cars for, California
6 consumers.

7 7. Defendant Corwin Industries Corporation (“Corwin”) has its principal place of
8 business at 17771 Cowan Avenue, Suite 100, Irvine, California 93614. Corwin is registered to
9 do business with the Bureau of Automotive Repair at various locations and is a wholly owned
10 subsidiary of Caliber. As such, Corwin advertises to, and repairs cars for, California consumers.

11 8. Defendant Matthew Ohrnstein (“Ohrnstein”) is an individual and is sued in his
12 individual capacity. Ohrnstein is the Chief Executive Officer, the Chairman, and the Director of
13 Caliber. Ohrnstein is also the Chief Executive Officer of Chapparone, Long, Kellejian, F & R,
14 San Marcos and Corwin. As such, Ohrnstein participates in the direction, control and
15 management of Caliber, Chapparone, Long, F & R , Corwin, and San Marcos and has ratified the
16 activities of the defendants complained of herein.

17 9. Defendant Bill Lawrence (“Lawrence”) is an individual and is sued in his
18 individual capacity. Lawrence is the President and Chief Operating Officer of Caliber. As
19 such, Lawrence participates in the direction, control and management of Caliber and has ratified
20 the activities of Caliber complained of herein.

21 10. Defendant David C. Riggan (“Riggan”) is an individual and is sued in his
22 individual capacity. Riggan is Caliber’s Senior Vice President and Chief Financial Officer.
23 Riggan has responsibility for all of Caliber’s accounting and information technology functions,
24 financial reporting, cash management, operations budget, risk management, and corporate
25 financial planning. Riggan is also the Secretary and Chief Financial Officer for Chapparone, F
26 & R, San Marcos, Long, Corwin and Kellejian and is the vice president and treasurer of F&R.
27 As such, Riggan participates in the direction, control and management of Caliber, Chapparone, F
28 & R, San Marcos, Long, Corwin, and Kellejian and has ratified the activities of Caliber,

Chapparone, F & R, San Marcos, Long, Corwin, and Kellejian complained of herein.

11. Defendant Debra L. Morris (“Morris”) is an individual and is sued in her individual capacity. Morris has served as Chapparone’s Vice President, Secretary and Treasurer. Morris has served as the Secretary and Chief Financial Officer of Long, Caliber, and Kellejian. Morris also acted as the secretary, vice president, and treasurer of San Marcos and as vice president of Kellejian. As such, Morris has participated in the direction, control and management of Chapparone, Long, Caliber, Kellejian, and San Marcos and has ratified the activities of Chapparone, Long, Caliber, Kellejian and San Marcos complained of herein.

12. Defendant Tom Coleman (“Coleman”) is an individual and is sued in his individual capacity. Coleman is the Senior Vice President of California operations for Caliber. Coleman also has managed Caliber’s Costa Mesa location, has had an internal consulting role where he was instrumental in developing many of Caliber’s initial standard operating procedures, and has acted as Vice President of Caliber where he created proprietary management tools designed to analyze key center performance indicators. As such, Coleman participates in the direction, control and management of Caliber and has ratified the activities of Caliber complained of herein.

13. Plaintiff is not aware of the true names and capacities of the defendants sued herein as DOES 1 through 20, inclusive, and therefore sues these defendants by such fictitious names. Each fictitiously named defendant is responsible in some manner for the violations of law herein alleged. Plaintiff will amend this complaint to add the true names of the fictitiously named defendants once they are discovered. Whenever reference is made in this complaint to “defendants” such reference shall include Does 1 through 20 and defendants Caliber, Long, Chapparone, Kellejian, F & R, San Marcos, Corwin, Morris, Ohrnstein, Riggan, Coleman and Lawrence.

14. Whenever reference is made in this complaint to any act of any corporate or other business defendant, such allegation shall mean that said defendant and its owners, officers, directors, agents, employees, or representatives did or authorized such acts while engaged in the management, direction, or control of the affairs of defendants and while acting within the scope

1 and course of their duties.

2 15. Whenever reference is made in this complaint to any act of defendants, such
3 allegation shall mean that each defendant acted individually and jointly with the other defendants
4 named in that cause of action.

5 16. Whenever in this complaint reference is made to any act of any individual
6 defendant, such allegation shall be deemed to mean that said defendant is and was acting (a) as a
7 principal, (b) under express or implied agency, and/or (c) with actual or ostensible authority to
8 perform the acts so alleged on behalf of every other defendant herein.

9 17. At all times mentioned herein, each defendant knew or realized, or should have
10 known or realized, that the other defendants were engaging in or planned to engage in the
11 violations of law alleged in this complaint. Knowing or realizing that other defendants were
12 engaging in such unlawful conduct, each defendant nevertheless facilitated the commission of
13 those unlawful acts. Each defendant intended to and did encourage, facilitate, or assist in the
14 commission of the unlawful acts, and thereby aided and abetted the other defendants in the
15 unlawful conduct.

16 18. The violations of law alleged in this complaint occurred in Fresno County and
17 elsewhere throughout California.

18 **FIRST CAUSE OF ACTION**
19 **VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTION 17200**
20 **(UNFAIR COMPETITION)**
(Against All Defendants)

21 19. Plaintiff, the People of the State of California, restates and incorporates
22 paragraphs 1 through 18 as though fully set forth herein.

23 20. Beginning on an exact date unknown to Plaintiff, defendants, and each of them, in
24 conducting their automotive repair business have engaged in, and are still engaging in, acts of
25 unfair competition, within the meaning of Business and Professions Code section 17200,
26 including, but not limited to, the following acts:

27 A. Invoicing and accepting payment from consumers and/or their insurance
28 companies for goods and/or services that were not provided or performed.

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2 B. Violating Business and Professions Code section 9884.8 by 1) failing to
3 give customers a written estimated price for labor and parts necessary for a specific job; 2) using
4 rebuilt, used or reconditioned parts and failing to clearly state that fact on the invoice; and 3)
5 failing to list service and parts separately on the invoice.

6 C. Violating Business and Professions Code section 9884.9(a) by performing
7 work and/or allowing charges to accrue before the customer gave authorization to proceed.

8 D. Violating 16 California Code of Regulations section 3353 by engaging in
9 work without proper prior customer authorization including: 1) performing work prior to
10 providing the customer with a written estimate for parts or labor; 2) failing to document oral
11 authorizations; and 3) failing to provide an estimate for repairs after a tear-down has been
12 performed.

13 E. Violating 16 California Code of Regulations section 3371 by publishing,
14 uttering, making or causing to be published, uttered or made any false or misleading statement or
15 advertising which is known to be false or misleading or which by the exercise of reasonable care
16 should be known to be false or misleading.

17 F. Violating 16 California Code of Regulations section 3373 by billing for
18 parts and labor on an invoice and performing labor or supplying parts in a manner that caused
19 the document to be false or misleading and/or have the tendency or effect of misleading or
20 deceiving customers or the public.

21 G. Willfully departing from or disregarding accepted trade standards for good
22 and workmanlike repair without the consent of the owner or the owner's duly authorized agent.

23 H. Violating Civil Code section 1770(a) subsection 5 by representing that
24 goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits or
25 quantities which they did not have.

26 I. Violating Civil Code section 1770(a) subsection 6 by representing that
27 goods are original or new if they have deteriorated unreasonably or are altered, reconditioned,
28 reclaimed, used or secondhand.

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2 J. Violating Civil Code section 1770(a) subsection 7 by representing that
3 goods or services are of a particular standard, quality or grade, or that goods are of a particular
4 style or model, if they are of another.

5 K. Violating Civil Code section 1770(a) subsection 15 by representing that a
6 part, replacement or repair service is needed when it is not.

7 L. Violating Civil Code section 1770(a) subsection 16 by representing that
8 the subject of a transaction has been supplied in accordance with a previous representation when
9 it has not.

10 M. Violating Business and Professions Code section 17500 as more
11 particularly described in paragraphs 22 and 23 below.

12 **SECOND CAUSE OF ACTION**
13 **VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTION 17500**
14 **(UNTRUE OR MISLEADING REPRESENTATIONS)**

15 21. Plaintiff, the People of the State of California, restates and incorporates
16 paragraphs 1 through 18 and 20 as though fully set forth herein.

17 22. Beginning on an exact date unknown to Plaintiff and continuing until the present,
18 defendants, acting directly or indirectly with intent to induce members of the public to engage
19 defendants' automotive repair services and to buy repair parts being sold by defendants, made or
20 caused to be made, in violation of Business and Professions Code section 17500, untrue or
21 misleading statements that include, but are not limited to the following:

22 A. Representing on invoices and final bills that specific services were
23 rendered, and demanding and accepting payment for those services, when defendants did not
24 perform those services.

25 B. Representing on invoices and final bills that specific parts or products had
26 been installed or replaced in consumers' automobiles, and demanding and accepting payment for
27 those products or parts, when those parts or products had not been installed.

28 C. Representing that defendants would only charge consumers the amounts
set forth on estimates provided and approved by consumers and then charging consumers for

1 unauthorized services or parts, some of which were never performed or installed.

2 23. Defendants knew, or by the exercise of reasonable care should have known,
3 at the time of making these statements, or causing these statements to be made, that the
4 statements set forth in paragraph 22 were untrue or misleading.

5 WHEREFORE, the People pray for judgment as follows:

6 1. That pursuant to Business and Professions Code section 17203, defendants, their
7 successors, agents, representatives, employees and all persons who act in concert with
8 defendants be permanently enjoined from engaging in unfair competition as defined in Business
9 and Professions Code section 17200, including, but not limited to, the acts and practices alleged
10 in this complaint.

11 2. That pursuant to Business and Professions Code section 17535, defendants, their
12 successors, agents, representatives, employees and all persons who act in concert with
13 defendants be permanently enjoined from making any untrue or misleading statements in
14 violation of Business and Professions Code section 17500, including, but not limited to, the
15 untrue or misleading statements alleged in this complaint.

16 3. Pursuant to Business and Professions Code section 17206, that the Court assess a
17 civil penalty of two thousand five hundred dollars (\$2,500) against defendants for each violation
18 of Business and Professions Code section 17200, as proved at trial, but in an amount of not less
19 than \$25,000,000.00.

20 4. Pursuant to Business and Professions Code section 17536, that the Court assesses
21 a civil penalty of two thousand five hundred dollars (\$2,500) against defendants for each
22 violation of Business and Professions Code section 17500, as proved at trial, but in an amount of
23 not less than \$25,000,000.00.

24 5. That defendants be ordered to make direct restitution of any money or other
25 property that may have been acquired by their violations of Business and Professions Code
26 sections 17200 and 17500.

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- 6. That the People recover their costs of suit.
- 7. Such other and further relief that the Court deems just and proper.

DATED: December 4, 2003

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